

CITY COUNCIL AGENDA

MARCH 6, 2007

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
VACANT
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED, MAYOR

VACANT
MADISON P. NGUYEN
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:32 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:04 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Reed. (Excused)
- **Invocation (District 3)**
Council Member Liccardo introduced Father Rubio, Sacred Heart Church, who presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 1.7 deferred to 3/13/07, Item 3.2, 2/7/07 Rules & Open Government Committee Report deferred to 3/13/07, 2/14/07 Rules & Open Government Committee Report deferred to 3/20/07 and 5.2 was heard.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of an award to the City Manager's Budget Office for receiving the Distinguished Budget Presentation Award. (City Manager's Office)
Mayor Reed and City Manager Les White recognized and commended the City Manager's Budget Office for their exceptional work in receiving the Distinguished Budget Presentation Award.
- 1.2 Presentation of a commendation recognizing a "Next Generation in the Public Sector" collaboration that encourages local junior high and high school students to consider a future career at the City of San José. (Human Resources)
Mayor Reed, Council Member Chirco and Director of Human Resources Mark Danaj recognized and commended the "Next Generation in the Public Sector" collaboration which encourages local junior and high school students to consider a future career at the City of San José.
- 1.3 Presentation of a commendation to Aubrey Parrott for his 45 years of dedicated service with the San José Police Department. (Constant)
(Rules in-Lieu referral 2/21/07)
Heard in the evening.
Vice Mayor Cortese and Council Member Constant recognized and commended Mr. Aubrey Parrot for his outstanding service and dedication to the San José Police Department for the past 45 years.
- 1.4 Presentation of a proclamation declaring March 2007 as "Greek History Month."
(Constant)
(Rules in-Lieu referral 2/21/07)
Heard in the evening.
Vice Mayor Cortese and Council Member Constant recognized March 2007 as "Greek History Month" in the City of San José.
- 1.5 Presentation of a commendation to Khoa Nguyen as the first Vietnamese American to be inducted to the United States Table Tennis Hall of Fame. (Nguyen)
(Rules in-Lieu referral 2/21/07)
Heard in the evening.
Vice Mayor Cortese and Council Member Nguyen recognized and commended Mr. Khoa Nguyen as the first Vietnamese American to be inducted into the United States Table Tennis Hall of Fame.

1. CEREMONIAL ITEMS

- 1.6 Presentation of a commendation to the Silver Creek High School Japanese Program and 2007 Japan Bowl team for their continued success to bring Japanese culture to the City of San José. (Cortese)
(Rules in-Lieu referral 2/21/07)
Heard in the evening.
Vice Mayor Cortese recognized and commended the Silver Creek High School Japanese Program and 2007 Japan Bowl team for their continued success in the City of San José.
- 1.7 Presentation of a commendation to the National Hispanic University Debate Team for their victory in the California Regional Intercollegiate Ethics Bowl on December 2, 2006, advancing the team to represent California in the National Ethics Bowl Championship.
(Mayor/Campos)
(Rules in-Lieu referral 2/21/07)
Deferred to 3/20/07, per Orders of the Day.
- 1.8 Presentation of a proclamation declaring March 6–13, 2007 as Irish Week in the City of San José. (Constant/Pyle/Williams)
(Rules Committee referral 2/28/07)
Mayor Reed and Council Members Constant, Pyle and Williams recognized the week of March 6 through March 13, 2007 as “Irish Week” in the City of San José.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of Minutes:

- (a) Regular Minutes of September 12, 2006
- (b) Regular Minutes of September 19, 2006
- (c) Regular Minutes of September 26, 2006
- (d) Joint City Council/Santa Clara Valley Water District Minutes of September 27, 2006

Deferred to 3/13/07 per City Clerk.

2.2 Final adoption of ordinances.

There were none.

2. CONSENT CALENDAR

2.3 Acceptance of the Office of the City Auditor's Report.

Recommendation: Acceptance of the Office of the City Auditor's *Report of Activities for the Period December 16, 2006 through January 15, 2007*. (City Auditor)
(Rules in-Lieu referral 2/21/07)

Deferred to 3/13/07, per Vice Mayor Cortese.

2.4 Approval to submit a grant application to support efforts of the Mayor's Gang Prevention Task Force.

Recommendation: Adoption of a resolution authorizing the City Manager to submit a grant application to the Federal Bureau of Justice Assistance in the amount of \$394,891 to support the efforts of the Mayor's Gang Prevention Task Force, to accept the grant if awarded, and to execute a grant agreement accepting the grant and any collateral documents, and to execute amendments to the grant agreement to extend or modify the grant period or to accept additional grand funds under this grant. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Resolution No. 73673 adopted.

2.5 Approval to initiate actions and set a public hearing for the annexation of Berryessa No. 68.

Recommendation: Adoption of a resolution initiating proceedings and setting April 3, 2007 at 7:00 p.m. for Council consideration on the reorganization of the territory designated as Berryessa No. 68 which involves the annexation to the City of San José of 15.3 gross acre County Pocket of land consisting of 2 parcels located on the southwest corner of Capitol Avenue and Hostetter Road, implementation of the annexation would result in the detachment of the same from the appropriate special districts including West Valley Sanitation, County Lighting County Service, Central Fire Protection and Area No. 01 (Library Services) County Service (Bianchi, Clara Trustee; Santa Clara Valley Transit Authority, Owners). CEQA: Resolution No. 65459, File No. C06-074. Council District 4. (Planning, Building and Code Enforcement)

Dropped per Administration.

2.6 Approval of a Contract Change Order for the rehabilitation of primary sanitary interceptors.

Recommendation: Approval of Contract Change Order No. 5 for the 84-Inch Reinforced Concrete Pipe Interceptor Rehabilitation Phase VIB project with the joint venture of Ebert Corporation and McGuire Hester in the amount of \$185,674 for a total contract amount of \$4,364,428.17 and an extension of 48 working days for a total of 278 working days. CEQA: Exempt, File No. PP02-05-114. Council Districts 3 and 4. (Public Works)

Approved.

2. CONSENT CALENDAR

2.7 Approval to set a Public Hearing for the vacation of a public service easement located at Magliocco Drive and Huff Avenue.

Recommendation: Adoption of a resolution of intention to vacate the public service easement created by Tract 9588, located on the northwest corner of Magliocco Drive and Huff Avenue, and setting a public hearing on March 27, 2007 at 1:30 p.m. CEQA: Mitigated Negative Declaration, File No. PDC01-008. Council District 6. (Public Works)

Resolution No. 73674 adopted.

2.8 Approval to increase the annual assessment and revise the scope of services in Maintenance District 18.

Recommendation: Adoption of a resolution of intention to increase the annual assessment and revise the scope of services in Maintenance District 18. CEQA: Exempt, File No. PP07-020. Council District 8. (Public Works)

Deferred to 3/27/07 per Administration.

2.9 Adoption of a resolution urging NBC-Universal to reconsider its decision to eliminate KSTS-48 Telemundo's "Noticiero 48" broadcast.

Recommendation: Adoption of a resolution urging NBC-Universal to reconsider the decision to eliminate KSTS-48 Telemundo's "Noticiero 48" broadcast. (Campos/Liccardo)

(Rules Committee referral 2/28/07)

Resolution No. 73675 adopted.

2.10 Appointment to the Project Diversity Screening Committee.

Recommendation: Approve the appointment of Alexander Hull to the Project Diversity Screening Committee to a 2 year term ending December 31, 2009. (Constant/City Clerk)

(Rules Committee referral 2/28/07)

Approved.

3. STRATEGIC SUPPORT SERVICES

**3.1 Report of the Study Session
Mayor Reed, Chair**

Recommendation: Approval of City Council Study Session Minutes:

(a) Recycle Plus Program and Procurement Process of August 11, 2006

(b) The Coyote Valley Specific Plan, Introduction to Form-Based Zoning of August 25, 2006

Deferred to 3/13/07 per City Clerk.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – February 14, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to February 20, 2007 Agenda
 - (2) Review February 27, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
 - (1) Approve the Proposed FY 2007-2008 Agency Budget Calendar. (RDA)
 - (2) Approve the revised Study Session schedule from February through May 2007. (Manager's Office)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Appointments to the Project Diversity Screening Committee. (Cortese/Constant/Chirco)
 - (2) Appointment to the Arts Commission. (Williams)
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Referral of Audit of Resources for Families and Communities. (City Auditor)
 - (2) Proposal to Convert Agnews Development Center to a State Prison. (Mayor)
 - (3) Royal Coach Tours. (Planning, Building and Code Enforcement)
 - (4) Addition of an Audit of the Camera Pavilion Management Corporation to the City Auditor's 2006-2007 work plan. (RDA)
 - (5) City Process on Responding to No-Match Letters from the Social Security Administration regarding discrepancies in employee Social Security numbers. (City Manager)
 - (6) Public Funded Campaigns (Voter-Owned Campaigns). (Elections Commission)
- (h) Public Records Act Requests
 - (1) Review of Significant Public Records Act Requests
 - (2) Receive Public Concerns
- (i) Review of Council Policy Updates per Sunshine Reforms
- (j) Open Forum
- (k) Adjournment

Deferred to 3/20/07, per Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – January 31, 2007

Mayor Reed, Chair

(a) City Council

(1) Review New Add Items to February 6, 2007 Agenda

The Committee approved the February 6, 2007 City Council Agenda with one revision.

(2) Review February 13, 2007 Draft Agenda

The Committee approved the February 13, 2007 Draft City Council Agenda with four additions.

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

(1) State

There were none.

(2) Federal

There were none.

(d) Meeting Schedules

(1) Cancel the Regular Rules Meeting and approve a Rules in-Lieu on February 21, 2007. (City Manager's Office)

The Committee approved Rules in Lieu on February 21, 2007 at 2:00 p.m.

(2) Approve (4) Council Orientation Sessions.

The Committee approved the following Council Orientation Sessions:

(a) **February 9, 2007, 9:00-11:00 a.m.**

(b) **March 2, 2007, 9:00-11:00 a.m.**

(c) **March 5, 2007, 10:00-12:00 noon**

(d) **March 9, 2007, 9:00-11:00 a.m.**

(e) The Public Record

The Committee asked Staff to return to the Rules and Open Government Committee on February 14, 2007 with the City's process on responding to No-Match Letters from the Social Security Administration.

(f) Appointments to Boards, Commissions and Committees

There were none.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – January 31, 2007 (Cont'd) Mayor Reed, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Discussion on Council Expenditure and Reimbursement Policy. (City Attorney/City Clerk)
(Deferred from 1/24/07)
The Committee asked Staff to return to the Rules and Open Government Committee on February 28, 2007 with an analysis of what types of expenses can and cannot be paid for out of officeholder accounts and a draft policy to discuss, that reflects the Committee's input.
 - (2) Discussion of Employee Values Project. (Human Resources)
The Committee directed the City Manager to integrate the Values into the City's Code of Ethics.
- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (3) Accept (1) Staff's report on Reed Reforms; (2) Provide clarification to staff on Reed Reforms #1, #5, #8 and #26; (3) Provide direction regarding exceptions outlined in the memorandum for Reed Reform #5; and (4) Request this report be considered by the City Council on February 6, 2007. (City Manager/City Attorney/City Clerk)
The Committee approved the exceptions to the "10 day Rule", as amended ("emergency" items expanded to include all matter of public welfare, second readings/final adoption of ordinances and appointments to boards/committees/commissions added to the list); agreed to maintain the "early distribution" practice but discontinue the requirement of a 2/3 vote at the dais to hear any certain items now that it is no longer necessary; and agreed to hold a public hearing in April to review and discuss recent case studies on ethical issues.
 - (4) Approve the following proposed Committee Work Plans:
 - (a) Transportation and Environment Committee
 - (b) Community and Economic Development Committee
 - (c) Public Safety, Finance and Strategic Support Committee
 - (d) Neighborhood Services & Education Committee
 - (e) Rules & Open Government Committee(Mayor/Williams/Pyle/Nguyen/Chirco)
The Committee approved the five proposed Committee Work Plans for the period February through June 2007.
 - (5) Approve Mayor's Travel to Washington, D.C. on February 14-16, 2007. (Mayor)
The Committee approved the travel request.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – January 31, 2007 (Cont'd)

Mayor Reed, Chair

- (h) Public Records Act Requests
 - (1) Review of Significant Public Records Act Requests
 - (2) Receive Public Concerns**There were none.**

- (i) Review of Council Policy Updates per Sunshine Reforms
There were none.

- (j) Open Forum
None were presented.

- (k) Adjournment
(Deferred from 2/27/07 – Item 3.2)
The meeting was adjourned at 4:10 p.m.

The Rules Committee Report and the Actions of January 31, 2007, were accepted.

Report of the Rules and Open Government Committee – February 7, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to February 13, 2007 Agenda
 - (2) Review February 20, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Overview of the City's Legislative Process for Determination of Official City positions on State and Federal Issues. (City Manager's Office)
 - (2) Federal
- (d) Meeting Schedules
 - (1) Set a Hearing for Spring 2007 for General Plan Amendments and Initiating the Re-establishment of a fall Annual Review of the General Plan. (Planning, Building and Code Enforcement)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Appointment to the Project Diversity Screening Committee. (Vice Mayor Cortese)
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Recommend acceptance to the Redevelopment Agency's Horizon Report for the first half of 2007. (Redevelopment Agency)
 - (2) Addition to the City Auditor's Work Plan to Review Resources for Families and Communities' Financial information. (City Attorney)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – February 7, 2007 (Cont'd.)

Mayor Reed, Chair

- (h) Public Records Act Requests
 - (1) Review of Significant Public Records Act Requests
 - (2) Receive Public Concerns
- (i) Review of Council Policy Updates per Sunshine Reforms
- (j) Open Forum
- (k) Adjournment

(Deferred from 2/27/07 – Item 3.2)

Deferred to 3/13/07, per Orders of the Day.

3.3 Report of the Public Safety, Finance and Strategic Support Committee

Council Member Nguyen, Chair

No Report.

3.4 Recommendation to defer consideration of public financing of campaigns.

Recommendation: Accept the report of the Elections Commission. (Elections Commission)

Report Accepted.

3.5 Resolution of support for Public Safety and Immigrant Rights.

Recommendation: Adoption of a resolution that takes the following actions:

- (1) Reaffirm the San José Police Department's longstanding policy that its officers will not arrest persons merely for their unlawful presence in the United States.
- (2) Reaffirm that no otherwise law-abiding undocumented immigrants should fear arrest or deportation for coming forward to report a crime as a victim or a witness.
- (3) Reaffirm that no otherwise law-abiding undocumented immigrants should fear arrest or deportation by contacting any employee of the City of San José to express concerns or to ask questions.
- (4) Express the view of the San José City Council that continued ICE raids, while laudable where they target violent or predatory criminals for deportation, can have harsh unintended consequences. Those sweeps that have cast the net widely to arrest otherwise law-abiding undocumented immigrants have raised the Council's concern, insofar as they undermine the ability of the police, fire department, and other City agencies to interact with fearful immigrants, leaving all of San José's residents less safe.

(Cortese/Campos/Liccardo/Nguyen)

(Rules Committee referral 2/28/07)

Heard first in the Evening.

Resolution No. 73677 adopted.

Constant opposed to Item (4).

4. COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Report of the Community & Economic Development Committee**
Council Member Pyle, Chair
No Report.

- 4.2 Approval of actions related to the Evergreen East Hills Vision Strategy.**

Recommendation: Approval of the following actions to continue funding for the completion of the Evergreen*East Hills Vision Strategy, Evergreen Area Development Policy update, and related documents:

- (a) Approval of a continuation to the funding agreement with Yerba Buena Opco, Inc. to extend the funding agreement from January 1, 2007 through June 30, 2007 for the work associated with completing the Evergreen*East Hills Vision Strategy which encompasses an update to the Evergreen Area Development Policy and related documents; and
- (b) Adoption of a resolution authorizing the Director of Planning, Building and Code Enforcement to negotiate and execute minor amendments to the funding agreement to account for increases in funding received from Yerba Buena Opco, Inc. and minor schedule or task changes that remain consistent with the information contained in and the goals identified in the memorandum.

CEQA: Exempt, PP03-10-349. Council Districts 5, 7, and 8. SNI: West Evergreen, K.O.N.A and East Valley/680. (Planning, Building and Code Enforcement).
(Deferred from 1/30/07 – Item 4.2, 2/6/07 – Item 4.4, and 2/27/07 – Item 4.2)

Dropped per Administration.

5. NEIGHBORHOOD SERVICES

- 5.1 Report of the Neighborhood Services and Education Committee**
Council Member Chirco, Chair
No Report.

- 5.2 Acceptance of the Civil Grand Jury Report on the Northside Community Center Operator selection process.**

Recommendation: Acceptance of the Parks, Recreation and Neighborhood Services Department's response to the 2006-2007 Santa Clara County Civil Grand Jury's Report entitled "Flawed RFP Process Holds Up Selection of Northside Community Center Operator". CEQA: Not a Project. Council District 3. (Parks, Recreation and Neighborhood Services)

Heard per Orders of the Day.
Report Accepted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation & Environment Committee – February 22, 2007 Council Member Williams, Chair

- (a) Recommended Modifications to the Photo Radar Speed Enforcement Program. (DOT/PD)
The Committee approved the Staff report, with Staff to report to the City Council at the March 6, 2007 City Council Meeting as a part of the FY 2007-2008 budget process on modifying NASCOP from an enforcement program to a warning program. See Item 6.3 for Council action taken.
- (b) Recycle Plus Transition Update and Service Rate Increase. (ESD)
The Committee approved the Staff report, with Staff to bring the recommendation to the City Council at the March 6, 2007 City Council Meeting. See Item 7.1 for Council action taken.
- (c) Water Pollution Control System Infrastructure Condition and Capital Funding. (ESD)
Deferred to 3/5/07 Transportation and Environment Committee Meeting.
- (d) State and Federal Legislation Update. (CMO)
The Committee approved the Staff report.
- (e) Oral Petitions
None were presented.
- (f) Adjournment
The meeting was adjourned at 3:06 p.m.

The Transportation and Environment Committee Report and the Actions of February 22, 2007, were accepted.

6.2 Approval of report of bids and award of contract for the Senter Road Widening Project.

Recommendation: Report on bids and award of contract for the Senter Road Widening Project – Phase II (Tully Road to Singleton Road) to the low bidder, Top Grade Construction, Inc. in the amount of \$2,593,446, and approval of a contingency in the amount of \$130,000. CEQA: Resolution No. 57204 and addenda thereto. Council District 7. (Public Works/Transportation)

Approved.

6. TRANSPORTATION & AVIATION SERVICES

6.3 Approval of actions related to the Neighborhood Automated Speed Compliance Program.

Recommendation:

- (a) Accept the February 22, 2007 report on the Recommended Modification to the Photo Radar Speed Enforcement Program,
Report Accepted.
- (b) Direct the Department of Transportation to report back to the City Council as part of the FY2007-2008 budget process on modifying the Neighborhood Automated Speed Compliance Program (NASCOP) from an enforcement program to a warning program; and
- (c) Direct the Department of Transportation to work with the City Manager's Office and City Attorney's Office to explore options to retain or reinstate the NASCOP program for the purpose of photo radar enforcement on local streets.

CEQA: Not a Project. (Transportation/Police)

[Transportation and Environment Committee 02/22/07 – Item 6.1(a)]

Approved, with the following additional direction to the Department of Transportation Staff:

- (1) **Immediately cease issuing tickets and assessing fines for speed violations detected by NASCOP system, until the legality of such sanctions can be clarified.**
- (2) **Explore the use of measures other than fines for speed violations, including warnings. The Department of Transportation should specifically consider the use of neighborhood based forms of advocacy, such as letters issued by local neighborhood associations, and/or direct communications by sworn Staff. Staff to return with alternatives for the Police Department's direct involvement.**
- (3) **Report to Council within 6 months of the implementation of the measures described in (2) to determine whether these measures have any impact in suppressing the incidence of speeding, so that Council can assess whether to continue the program as modified.**
- (4) **Direct the Office of Intergovernmental Relations to partner with other interested cities, including but not limited to Los Angeles and Beverly Hills and the League of California Cities to advocate for legislation in Sacramento authorizing the use of NASCOP for speed enforcement.**
- (5) **Department of Motor Vehicle personal information about residents to remain strictly confidential.**

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of actions related to Recycle Plus Service Rate Increases.

Recommendation:

- (a) Acceptance of the status report on the 2007 Recycle Plus Hauler Transition; and
Report Accepted.
- (b) Set a public hearing for May 8, 2007, on the recommended Recycle Plus rate increases for Fiscal Year 2007-2008, and potential Recycle Plus rate increases covering the following two fiscal years.
Approved, with the May 8, 2007 Public Hearing set for 3:30 p.m.
- (c) In accordance with Proposition 218 requirements, direct the Administration to send notices to San José residential property owners for receipt no later than March 23 informing them of potential Recycle Plus rate increases over the next three fiscal years. For Fiscal Year 2007-2008, the rate notices would provide for an increase of not-to-exceed 29% for single-family services and not-to-exceed 10% for multi-family services. For Fiscal Years 2008-2009 and 2009-2010, the rate notices would provide for increases of not-to-exceed 10% each year for both single-family and multi-family services. Council would set the specific level increases at the conclusion of the May 8 public hearing, which could be at or below the not-to-exceed percentages provided in the public notices.

CEQA: Not a Project. (Environmental Services)

[Transportation and Environment Committee 02/22/07 - Item 6.1(b)]

Approved.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:15 p.m. to consider Item 9.1 in a Joint Session.

9.1 Approval of actions related to the Green Building Policy.

Recommendation:

- (a) Adoption of a resolution approving the San José City Council Green Building Policy;
Resolution No. 73676 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Approval of actions related to the Green Building Policy (Cont'd.)

Recommendation:

- (b) Acceptance of staff report on recommended strategies to achieve USGBC LEED certification for the projects currently underway;

Report Accepted.

Staff requested to:

- (1) **Proceed at a higher minimum level, i.e. Gold or Platinum in lieu of Silver, setting a higher goal for the City.**
 - (2) **Perform a Cost Benefit Analysis for the projects.**
- (c) Referral to the Transportation & Environment Committee to oversee the development of incentives to encourage Green Building into private development projects.

CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

Approved.

Staff directed to return to the Transportation and Environmental Committee by June 2007.

The Redevelopment Agency Board portion of the meeting was adjourned at 4:53 p.m.

• Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9833	West side of Cypress Ave. 400 feet south of Stevens Creek Blvd.	1	Cypress Quarter Homes Corp.	5 Lots / 4 Units	SFD & SFA	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9903	Southeast Corner of Leigh Avenue and Foxworthy Avenue	9	Edenbridge Inc.	24 Lots / 23 Units	Single Family

- Notice of City Engineer's Award of Construction Projects
None.
- Open Forum
 - (1) Robert Apgar voiced personal observations.
 - (2) Mark Trout presented religious points of view.
- Adjournment

The Council of the City of San José adjourned the afternoon session at 4:48 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

11. PUBLIC HEARINGS

(Heard by the City Council at 7:04 p.m.)

11.2 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit.

Recommendation: Administrative Hearing on consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit to allow the construction of an outdoor dining patio and storage building for an existing restaurant (Tomato Thyme) on a 0.40 gross acre site, in the CN Neighborhood Commercial Zoning District, located on the south side of Hamilton Avenue approximately 320 feet easterly of Meridian Avenue (1560 Hamilton Avenue) (John D. Smith, Owner). CEQA: Mitigated Negative Declaration.

CP02-008 - District 6

(Continued from 1/23/07 – Item 11.5)

Continued to 4/17/07 per Administration and Applicant's Request.

11.3 Rezoning the real property located at the southeast corner of Almaden Expressway and Almaden Road.

Recommendation: Consideration of ordinance rezoning the real property located on the southeast corner of Almaden Expressway and Almaden Road (18951 Almaden Road) from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow removal of the Feed and Fuel building for construction of up to 13 single-family detached residences on a 1.24 gross acre site (Carson Jon D and R Jennifer, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-0).

PDC05-109 – District 10

(Continued from 2/27/07 – Item 11.5)

Ordinance No. 27988 passed for publication.

11. PUBLIC HEARINGS

11.4 Rezoning the real property located at/on the east side of North 4th Street.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the east side of North 4th Street, approximately 600 feet northerly of Gish Road, from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 100 multi-family residences on a 0.75 gross acre site (1470 N. 4th Street)(Owner/Developer; First Community Housing Inc). CEQA: North San José Area Development Policy Resolution No. 72768. The Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-1-0).

PDC06-022 – District 3

Continued to 3/13/07, time certain 2:30 p.m., per Council Member Liccardo.

11.5 Rezoning the real property located on the terminus of Duckett Way.

Recommendation: Consideration of an ordinance rezoning the real property located on the terminus of Duckett Way, approximately 420 feet east of S. De Anza Boulevard from R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 19 new single family attached residential units and one single family residence on an 1.83 gross acre site (1566 Duckett Way) (P. Lenahan and M. Barshow, Owners; Barry Swenson Builders, Developer). CEQA: Mitigated Negative Declaration. The Director of Planning, Building and Code Enforcement and Planning Commission recommended to not adopt the rezoning ordinance (4-1-2).

PDC06-062 - District 1

(Continued from 12/5/06 – Item 11.4, 12/12/06 – Item 11.7, 1/23/07 – Item 11.4, 2/6/07 – Item 11.2 and 2/27/07 – Item 4.9)

Ordinance No. 27989 passed for publication, with the following amendments:

- (1) **Relocate a unit equivalent in size to #14 from the riparian setback area to a new location adjacent to unit 7.**
 - (a) **To accommodate the relocated unit adjacent to #7, the zoning will allow the removal of the two ordinance-size trees #42 and #43, allow a 20 foot curb to curb cul-de-sac and allow a parking requirement of 10 guest parking spaces.**
- (2) **Shrink the footprint of unit 8 as much as possible, while preserving the unit's square footage. Allow a third story element, if necessary.**
- (3) **Prohibit third story balconies on the north side of units 16, 17 and 18.**
- (4) **Allow a minimum 15 foot setback on the west property line to afford the applicant an opportunity to shift the entire project further away from the riparian area.**
 - (a) **At the Planned Development Permit stage, Staff should work with the applicant to balance shifting the project away from the riparian area with preserving as many of the mature ordinance size trees along the west property line as possible. These trees are an attractive feature for this project and the broader community. Direction to remove them would be inconsistent with the City's long established goal of preserving and replenishing its urban forest.**

Noes: Chirco.

- **Open Forum**
 - (1) **Brian Schmidt, Committee for Green Foothills, criticized the Draft Fiscal Analysis for the Coyote Valley Specific Plan.**
 - (2) **Harvey Darnell objected to the last minute change in recommendation for Item 11.5 and added that the community deserves to have more input on land use decisions.**

- **Adjournment**

The Council of the City of San José was adjourned at 10:44 p.m.